

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN KANE and ANDRE NESTOR,

Defendants.

Case No. 2:11-cr-00022-MMD-GWF

ORDER REGARDING SUPPLEMENTAL
BRIEFING

The Court has ordered a hearing on the parties' objections to the Magistrate Judge's Report and Recommendation. Several issues require supplemental briefing for the efficient and just resolution of those objections.

GOOD CAUSE APPEARING, the Court HEREBY ORDERS the parties to submit supplemental briefing on the following:

(1) Regarding whether the video poker machines at issue are "protected computers" under the Computer Fraud Abuse Act ("CFAA"):


a. In other relevant contexts, how have courts construed the meaning of language identical to the statutory language contained in 18 U.S.C. § 1030, "used in or affecting interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States."

(2) Regarding whether Defendants “exceeded authorized access” under the CFAA:

b. In light of *United States v. Nosal*, 676 F.3d 854, 863-864 (9th Cir. 2012) and the considerable legislative history demonstrating that Congress intended the CFAA to punish computer hacking, rather than computer mis-use, was Defendants' conduct comparable to hacking or mis-use?

ENTERED THIS 15th day of April 2013.

2013.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE